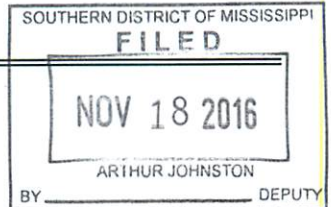


AO 91 (Rev. 08/09) Criminal Complaint



## UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

United States of America )

v. )

Benjamin Falcon-Aguirre )

Case No. 1:16mj593-RHW )

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 17, 2016 in the county of Hancock in the  
Southern District of MS, Southern Division, the defendant(s) violated:

*Code Section**Offense Description*

21 U.S.C. § 846

Conspiracy to Possess with Intent to Distribute a Controlled Substance, to wit, Methamphetamine and Cocaine, schedule II narcotic drug controlled substances.

This criminal complaint is based on these facts:

See affidavit attached hereto and incorporated herein

☒ Continued on the attached sheet.

A handwritten signature in blue ink, appearing to be "J. Elder".

*Complainant's signature*

Jason Elder, Special Agent, HSI

*Printed name and title*

Sworn to before me and signed in my presence.

Date: 11/18/2016

A handwritten signature in blue ink, appearing to be "Robert H. Walker".

*Judge's signature*City and state: Gulfport, MS

Robert H. Walker, U.S. Magistrate Judge

*Printed name and title*

**AFFIDAVIT**

**STATE OF MISSISSIPPI  
COUNTY OF HARRISON**

I, Jason Elder, being first duly sworn, hereby depose and say that:

1. I am a special agent with the Department of Homeland Security, Homeland Security Investigations (HSI) and have been since May 2007. As a Homeland Security Investigations special agent, I have attended training courses which provided specialized training in the area of immigration and immigration related fraud. Prior to my present employment, I was employed by United States Customs and Border Protection in Gulfport, Mississippi, and was employed by the Harrison County Sheriff's Department, Gulfport Mississippi. During the course of my law enforcement employment, I have been involved in various types of criminal investigations including but not limited to homicide, burglary, and fraud.

2. On November 17, 2016, at approximately 4:45 p.m., Mississippi Highway Patrol Trooper Elmer Townsend conducted a traffic stop on Interstate 10 East at mile marker 8 with a grey 2006 Nissan Titan, Vehicle Identification Number 1N6AA07BX4N560543 bearing Texas tag HTV-9635, for a traffic violation.

3. Trooper Townsend identified the driver as Benjamin FALCON-Aguirre. Trooper Townsend asked FALCON-Aguirre for his driver's license. FALCON-Aguirre advised he didn't speak English. Trooper Townsend then called Border Patrol Agent Jorge Rodriguez for assistance in translating. FALCON-Aguirre advised Trooper Townsend and Agent Rodriguez that he had an argument with his wife and "just started driving." FALCON-Aguirre advised he drove from El Paso, Texas. Border Patrol Agent Rodriguez asked FALCON-Aguirre why he came to Mississippi and

FALCON-Aguirre stated that he had already been to California and wanted to go somewhere different.

4. Agent Rodriguez read FALCON-Aguirre a consent to search form in Spanish and asked FALCON-Aguirre if FALCON-Aguirre would give consent to search the vehicle. FALCON-Aguirre gave written consent to search the vehicle. Trooper Jamie Puckett who was providing assistance looked under the vehicle and noticed the drive shaft had been manipulated. Trooper Puckett checked the density of the drive shaft using a density meter. The results of the meter were higher than normal indicated that something might be inside the driveshaft. Trooper Puckett drilled a hole in the driveshaft at which time a powdery substance fell from the driveshaft. The substance was field tested and tested positive for methamphetamine and cocaine.

5. Border Patrol Agent Rodriguez verbally advised FALCON-Aguirre of his rights per Miranda. FALCON-Aguirre stated he was buying the truck from a friend of his and was not aware that anything was in the vehicle. The vehicle was towed to the Mississippi Highway Patrol Troop K station for further evaluation. Trooper Townsend and other troopers removed the drive shaft of the vehicle. The driveshaft had been manipulated and at each end appeared to have been attached and welded back together. Trooper Townsend cut off each end the driveshaft. The driveshaft was filled with a powdery substance. Each end of the driveshaft appeared to have a different substance inside. One substance had positive test for methamphetamine and the other substance field tested positive for cocaine. Agents and Troopers removed 27 ½ pounds of methamphetamine and 6 ½ pounds of cocaine from the driveshaft.

6. Special Agent Jason Elder, Mississippi Bureau of Narcotics Agent Vince Barnett and Border Patrol Agent Rodriguez interviewed FALCON-Aguirre. Border Patrol Agent Rodriguez verbally advised FALCON-Aguirre of his Miranda rights again at which time FALCON-Aguirre

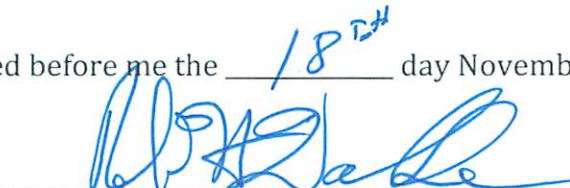
waived his rights and gave a statement. FALCON-Aguirre stated that sometime on November 8, 2016 he had an argument with his wife so he went out drinking with his friends in a bar in Juarez, Mexico. According to FALCON-Aguirre, an associate known as Andres LNU aka El Valle (the vehicle is registered to Andres ALVARADO) asked FALCON-Aguirre if he wanted to clear his mind and get away from his wife for a few days. FALCON-Aguirre further stated that EL VALLE asked FALCON-Aguirre if he would drive a truck to Mobile, Alabama and exchange it for another vehicle. FALCON-Aguirre stated he agreed to drive the truck for \$1000. FALCON-Aguirre stated he told EL VALLE that if at the border Customs and Border Protection wanted to search the truck he would let them. FALCON-Aguirre stated he did not know there were narcotics in the vehicle.

7. According to FALCON-Aguirre, he entered the United States in the aforementioned vehicle at El Paso, Texas on November 16, 2016. FALCON-Aguirre stated he stopped in San Antonio, Texas and slept at a hotel. FALCON-Aguirre stated he was to call EL VALLE when FALCON-Aguirre was close to Mobile, Alabama for further instructions.

5. Based on the aforementioned facts and circumstances, your affiant believes there is probable cause that Benjamin FALCON-Aguirre has violated Section 846, Title 21, United States Code, conspiracy to possess with intent to distribute a detectable amount of methamphetamine and cocaine.

  
JASON ELDER, Special Agent  
Department of Homeland Security  
Homeland Security Investigations

Sworn and subscribed before me the 18<sup>th</sup> day November, 2016.

  
UNITED STATES MAGISTRATE JUDGE